

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

-----x  
JOSEPH MANTHA on behalf of  
themselves and others similarly  
situated,

Plaintiff,

v. Case no. 1:19-cv-12235  
QUOTEWIZARD.COM, LLC,  
Defendant.

-----x

12:30 p.m.

July 28, 2020

VIDEOTAPED VIRTUAL DEPOSITION of LEAD  
INTELLIGENCE INC., by and through MICHAEL FISHMAN,  
a non-Party in the above entitled matter, pursuant  
to Subpoena, before Stephen J. Moore, a Registered  
Professional Reporter, Certified Realtime Reporter  
and Notary Public of the State of New York.

1 MICHAEL FISHMAN

2 A P P E A R A N C E S:

3 BRODERICK LAW PC

4 Attorneys for Plaintiffs

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6 Winchester, MA 01890

7  
8 BY: EDWARD A. BRODERICK, ESQ.

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10 Attorneys for Defendant

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13  
14 BY: KEVIN POLANSKY, ESQ.

15 KLEIN MOYNIHAN TURCO LLP

16 Attorneys for RevPoint Media, LLC.

17 450 Seventh Avenue

18 New York, NY 10123

19  
20 BY: EVAN KING, ESQ.

MICHAEL FISHMAN

EXAMINATION BY

PAGE

MR. BRODERICK

6 6

MR. POLANSKY

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E X H I B I T S

EXBT 19 RevPoint subpoena response

43 15

combined

EXBT 20 Letter

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EXBT 21 PDF Quotewizard\_mantha

49 16

EXBT 22 Subpoena response

51 13

1 MICHAEL FISHMAN

2 THE VIDEOGRAPHER: We are on the  
3 record, the time is approximately 12:33  
4 p.m. on Tuesday July 28, 2020.

5 Please note the microphones are  
6 sensitive and will pick up whispering and  
7 private conversations and cell  
8 interference.

9 Please turn off all cell phones or  
10 place them away from your computer as they  
11 will interfere with the audio.

12 Audio and video recording will  
13 continue to take place unless all parties  
14 agree to go off the record.

15 This is media unit 1 of the video  
16 recorded deposition of Michael Fishman  
17 taken by the counsel for the Plaintiff in  
18 the matter of Joseph Mantha on behalf of  
19 themselves and all others simply situated  
20 versus Quotewizard.com LLC.

21 The case is filed in the U.S.  
22 District Court for the District of  
23 Massachusetts, case number 1:19-CV-12235.

24 The deposition is being held via  
25 teleconference.

1 MICHAEL FISHMAN

2 I am Ken Williamson for the firm  
3 Veritext New England, I am the  
4 videographer.

5 Our court reporter, is Stephen  
6 Moore for the firm Veritext New York.

7 Please note I am not authorized to  
8 administer an oath, I am not related to  
9 any party in this action, nor am I  
10 financially interested in the outcome.

11 Counsel, please identify yourselves  
12 for the record and please start with the  
13 noticing attorney.

14 MR. BRODERICK: Good morning, Mr.  
15 Fishman, I am Edward Broderick, I  
16 represent the Plaintiff, Joseph Mantha.

17 MR. POLANSKY: Good afternoon Mr.  
18 Fishman, I am Kevin Polansky and I  
19 represent Quotewizard.

20 MR. KING: Evan King, counsel for  
21 RevPoint and counsel for the witness.

22 MR. LANDAU: Please swear in our  
23 witness.

24  
25 M I C H A E L F I S H M A N , called as

1 MICHAEL FISHMAN

2 a witness, having been first duly sworn by  
3 the Notary Public, was examined and  
4 testified as follows:

5  
6 EXAMINATION BY

7 MR. BRODERICK:

8  
9 Q Mr. Fishman, can you state  
10 your -- actually, first let me give you some  
11 ground rules.

12 Have you ever been deposed  
13 before, Mr. Fishman?

14 A I have not.

15 Q So, just to keep a clear record,  
16 and particularly since we are over Zoom, I am  
17 going to ask that you let me finish my question  
18 entirely, and I will try to do the same and not  
19 jump into the middle of your answer because it  
20 drives the -- it will drive Mr. Moore crazy  
21 trying to take down the record.

22 Even though he is in that harbor  
23 that we can see him sitting in, it gets  
24 aggravating.

25 A Fair enough.

1 MICHAEL FISHMAN

2 Q And can you give me -- state  
3 your full name for the record?

4 A My full name, Michael Alex  
5 Fishman.

6 Q And how long have you worked for  
7 RevPoint?

8 A Approximately eight years.

9 Q What's your job title there?

10 A CEO.

11 Q What did you do before you  
12 started at RevPoint?

13 A I've been in digital marketing  
14 ultimately my entire career.

15 Q And did you found RevPoint, are  
16 you the owner as well?

17 A I am.

18 Q Do you have partners in the  
19 business?

20 A Not active.

21 Q What does RevPoint do?

22 A RevPoint Media is a software and  
23 lead acquisition and distribution marketplace.

24 Q In layman's terms for the  
25 non-digital marketer, what does that mean?

1 MICHAEL FISHMAN

2 A So, we help facilitate leads  
3 that are captured from entities and help  
4 distribute them to end service providers.

5 Q What is the relationship, if  
6 any, between RevPoint and Quotewizard.com?

7 A We were a provider of leads to  
8 Quotewizard.

9 Q You say in the past tense, are  
10 you no longer a provider of leads?

11 A We have not provided them with  
12 leads in -- I'm not exactly sure, but in many  
13 months.

14 Q Did you have a contract with  
15 Quotewizard?

16 A Yes, we did.

17 Q And why did the relationship  
18 end?

19 MR. POLANSKY: Objection.

20 MR. KING: I object as to form,  
21 unless -- when you hear the word  
22 objection, unless I instruct you not to  
23 answer, you can still answer.

24 THE WITNESS: Okay, so I can  
25 answer, or no?



1 MICHAEL FISHMAN

2 MR. KING: Yes, you can answer.

3 I'm sorry.

4 A I actually don't know exactly  
5 why the relationship ended.

6 Q Was it because of this lawsuit,  
7 do you know?

8 MR. KING: Objection as to form.

9 MR. POLANSKY: Objection.

10 A That is not my recollection.

11 Q Is it fair to say that RevPoint,  
12 when you were working with Quotewizard you  
13 would provide them with potential leads for  
14 telemarketing purposes?

15 A I don't know what the leads --  
16 what the purpose of the leads were for  
17 Quotewizard.

18 So I don't know that they were  
19 used for telemarketing purposes.

20 Q Okay.

21 But you just sold them leads.

22 Does RevPoint do anything to  
23 ensure that leads that it's providing -- did  
24 you do anything to ensure that leads you were  
25 providing to Quotewizard had -- that the people

1 MICHAEL FISHMAN

2 whose information was being sold had consented  
3 to receive calls or texts under the TCPA?

4 A Our technology verifies that  
5 certain criteria is met from the sources, that  
6 there is a consent text that is provided along  
7 with the lead, and we also in certain  
8 circumstances will verify that a -- that a lead  
9 ID is passed with or a trusted form certificate  
10 is passed with the lead.

11 Q When you say a lead ID, is that  
12 a Jornaya lead ID?

13 A Yes, correct, a Jornaya lead ID.

14 Q And trusted form is a different?

15 A Is a different service.

16 Q I'm just going to show you, do  
17 you have your Exhibit Share set up?

18 A I do.

19 Q This is one of the nice things  
20 of working with somebody who is in technology,  
21 it's a lot easier.

22 Q Are you designated to testify  
23 today on behalf of RevPoint Media LLC?

24 A I am.

25 Q And are you the person most

1 MICHAEL FISHMAN

2 knowledgeable about the lead that was sold to  
3 Quotewizard?

4 A Yes.

5 Q How much does RevPoint get paid  
6 for a -- how much did you get paid for the lead  
7 related to Joseph Mantha?

8 MR. POLANSKY: Objection. Before  
9 you answer, I mean is that part of the  
10 notices? The notice that was  
11 identified?

12 I don't see it on the topics of  
13 examination.

14 MR. KING: Yes, I object as well.

15 MR. BRODERICK: I will just take  
16 a look here, I've got it open.

17 Any purchase or sale of Mr.  
18 Mantha's purported consent lead by  
19 RevPoint Media LLC.

20 MR. POLANSKY: Sure, and I  
21 understand that to mean whether it was  
22 purchased or sold by RevPoint, but not  
23 for value.

24 I mean I don't see what the price  
25 of purchasing a lead has anything to do

1 MICHAEL FISHMAN

2 with this case.

3 MR. BRODERICK: Well, I think  
4 it's within the topic.

5 Unless you are going to instruct  
6 not to answer I will let the question  
7 stand.

8 MR. POLANSKY: I will object.

9 MR. KING: I will object as well,  
10 but I won't instruct.

11 You can answer.

12 A I don't even have that in front  
13 of me; so I don't know.

14 Q Do you know what's generally the  
15 cost? I mean you are not getting \$100 per  
16 lead, I take it?

17 A I am not getting \$100 per lead.

18 I would say it's drastically  
19 lower than that, but I don't know because the  
20 pricing per lead is dynamic.

21 Q Is that set through an API  
22 system?

23 A Yes; through what's called a  
24 ping/post.

25 Q What are the factors on which

1 MICHAEL FISHMAN

2 your pricing depends?

3 A I'm not sure I understand the  
4 question.

5 Q Well, you say the pricing is  
6 dynamic. I assume that there is -- what is the  
7 dynamic in the pricing, I guess is what I'm  
8 asking?

9 A Well, that price is determined  
10 by Quotewizard, I don't have any understanding  
11 of how they are determining pricing.

12 Q Do you have a set minimum that  
13 you are willing to sell a lead for?

14 A Sometimes; it depends.  
15 I don't know if there was one  
16 set in this case, I have no -- that's not a  
17 standard practice.

18 Q Can you give me a ballpark of  
19 what the -- when you ping and post, are you  
20 pinging and posting only to one potential  
21 buyer, or is that posted to many and anyone can  
22 bid on it, on the API?

23 A The ping is sent to multiple  
24 buyers, that does not include any PII  
25 information.

1 MICHAEL FISHMAN

2 The post is only sent to one  
3 buyer.

4 Q And that is the buyer who  
5 responds with an offer to buy the lead?

6 A No. The offer to buy -- there  
7 is a bid on a ping, so information is sent,  
8 there is a bid.

9 If the bid is accepted, then the  
10 lead is sent in the post and that is the  
11 agreement to purchase that lead.

12 And possibly, by the way,  
13 because the post then could be rejected as  
14 well.

15 Q Right.

16 And just give me a ballpark, are  
17 we talking 10 cents a lead or \$1 a lead for the  
18 Mantha lead?

19 MR. POLANSKY: Objection.

20 MR. KING: Objection, I think  
21 that's kind of explained as best he  
22 could, but you can answer.

23 A I don't know, I wouldn't want to  
24 speculate on the price.

25 Q I'm not going to hold you to a

1 MICHAEL FISHMAN

2 price, I'm just trying to get a universe.

3 A I mean it could be -- I would  
4 say that 10 cents is probably not realistic and  
5 I would say that \$30 is not realistic.

6 But that's a very wide range of  
7 potential for pricing.

8 Q Got it.

9 What is the relationship between  
10 RevPoint and Plural Marketing Solutions, if  
11 any?

12 A Plural was a lead provider into  
13 the RevPoint lead marketplace.

14 Q How long did RevPoint work with  
15 Plural?

16 A I think somewhere around ten  
17 months.

18 Q And when did you stop working  
19 with Plural?

20 A Soon after we learned of this  
21 complaint.

22 Q So, is it fair to say that  
23 RevPoint was not involved -- had no connection  
24 to the website that -- on which this lead for  
25 Mr. Mantha was purportedly created?

1 MICHAEL FISHMAN

2 A Yes, that's fair to say.

3 Q And do you have any  
4 understanding of whether Plural was directly  
5 involved with that website?

6 A I have no understanding of that.

7 Q Okay.

8 Who did you -- with whom, if  
9 anyone, did you work at Plural for employees?

10 A The only contact that we have  
11 over there is George Rios.

12 Q Do you know how to spell that  
13 last name?

14 A I don't.

15 I would be speculating on the  
16 spelling of his name.

17 Q Can you say it again?

18 A Rios, if you want just R-i-o-s;  
19 maybe.

20 Q Okay, sure. I couldn't quite  
21 hear you.

22 What is your understanding of  
23 what Plural provided to RevPoint?

24 MR. POLANSKY: Objection; when?

25 Q What did they provide -- when



1 MICHAEL FISHMAN

2 they provided you with a lead, what would you  
3 get?

4 MR. POLANSKY: Are you asking in  
5 general, or in this case?

6 I can't hear you, Ted.

7 Q Sorry.

8 For the Mantha lead, what was  
9 provided to RevPoint by Plural, if anything?

10 A Do you mean at the point of the  
11 initial lead, or in general?

12 Q At the point of the initial  
13 lead, then we will get to other points.

14 A I mean this was a ping/post  
15 relationship, so they would have pinged the  
16 RevPoint marketplace with information without  
17 any PII and then they would have received a bid  
18 and then they would have posted that lead into  
19 RevPoint's marketplace.

20 Q Okay. When you say PII, that's  
21 personal identifying information?

22 A Correct.

23 Q So would you get a -- when your  
24 system was pinged by Plural with the Mantha  
25 lead, what data does your API system see?

1 MICHAEL FISHMAN

2 A I don't know specifically,  
3 because every API integration might be a little  
4 different.

5 So if we are talking  
6 specifically auto insurance, it might be make  
7 and model of a vehicle, it might be a zip code.

8 These are -- I can only  
9 speculate on this particular API integration on  
10 what's being provided.

11 But those are some examples of,  
12 you know, data that would be provided within a  
13 ping.

14 Q Got it, got it.

15 And what is the PII that is not  
16 provided when you get this?

17 A No, no.

18 Q I was actually asking what is  
19 the -- what is PII in that context?

20 A So, PII would include name,  
21 address, e-mail, phone number.

22 Q Is the IP address from which the  
23 lead was created PII?

24 A I don't know that we define that  
25 as PII.

1 MICHAEL FISHMAN

2 I am not sure if that is

3 provided on the ping or the post.

4 I don't know that I've ever

5 classified that as PII in conversation.

6 But that's -- but I would have

7 to look up whether we are receiving IP on the

8 ping and the post.

9 Q Also on the ping or the post is  
10 the URL of the website on which the lead was  
11 purportedly collected, is that provided on the  
12 ping?

13 A That depends on the integration.

14 I don't know what the case was  
15 specific for this. Website URLs are not  
16 standardized, and masking of them is.

17 So, I -- in order to try and  
18 avoid circumvention.

19 So I'm not sure what the  
20 specifics of this lead were on whether --  
21 sometimes it's not provided at all and  
22 sometimes it is.

23 Q Okay.

24 And then after your marketplace  
25 purchases the lead, purchased the lead from

1 MICHAEL FISHMAN

2 Mantha from Plural, then what happens?

3 A Well, the marketplace for Jangl  
4 only purchases a lead if it has an opportunity  
5 to distribute it, to sell it.

6 So, that transaction takes in  
7 Jangl's marketplace, RevPoint Media's  
8 marketplace, only takes upwards of 30 seconds.

9 So that lead would have been  
10 acquired and then sent to Quotewizard.

11 Q You said Jangl is that  
12 J-a-n-g-l?

13 A Yes.

14 Q What is that?

15 A That is the name of our  
16 technology that allows ping/post.

17 Q Is that technology, or is that  
18 software?

19 A Yes.

20 Q And did you develop that  
21 software yourself?

22 A Yes.

23 Well, I did not personally  
24 develop that software myself, but RevPoint  
25 Media did.

1 MICHAEL FISHMAN

2 Q Do you have computer programmers  
3 that work for you?

4 A Yes.

5 Q Do you know who Adam Brown is?

6 A I do not.

7 Q Have you ever dealt with a  
8 company called Request Path Media?

9 A Not to my knowledge, no.

10 Q How about Blue Flame marketing?

11 A Not to my knowledge, no.

12 Q Anything that sounds like that?

13 A I mean there are a lot of  
14 companies that have the word blue in them, I  
15 don't know Blue Sky, I can't -- I mean anything  
16 with blue in it might ring a bell.

17 It's certainly something we can  
18 look up, but I don't have any knowledge of  
19 those companies.

20 Q Okay.

21 How about Justin Cohen?

22 A Doesn't ring a bell.

23 Q Does RevPoint buy or are you  
24 aware of buying leads that were generated on a  
25 website called SnappyAutoInsurance.com?

1 MICHAEL FISHMAN

2 A Not until after this complaint.

3 Q But before this complaint that  
4 was not a website you were familiar with?

5 A No.

6 Q How about unitedquotes.com?

7 A Yes, I was familiar with that  
8 site.

9 Q And do you know what company  
10 owns that domain, unitedquotes.com?

11 A I don't.

12 Q How were you familiar with  
13 unitedquotes.com?

14 A The site was provided for us to  
15 vet -- at some point it was provided to us as a  
16 lead generation website.

17 That's about all the knowledge I  
18 have of that particular website.

19 I don't remember much more than  
20 that, other than I remember that website being  
21 provided as something for us to look at as a  
22 lead generation website.

23 Q Do you know when that was that  
24 you vetted the unitedquotes.com website?

25 A I couldn't recall. More than a

1 MICHAEL FISHMAN

2 year ago, or possibly within a year.

3 A long time ago, it hasn't --  
4 not recently.

5 Q Was it in connection with this  
6 lawsuit?

7 A No.

8 Q What did you do or what do you  
9 do to vet a website, as you said?

10 A In most cases we actually  
11 provide that to the lead purchaser to allow  
12 them to take a look at that website.

13 Q Right, but do you just get a  
14 link to the website, or is there something more  
15 to vet?

16 A No, it's mainly just a link.

17 Q Do you check TCPA disclosure  
18 language on those websites?

19 A We will -- it's not standard  
20 practice for us to do that, but we will take a  
21 look.

22 But no, mainly we would be, if  
23 that was requested, then we would provide that  
24 link.

25 Q Okay, is the company called --

1 MICHAEL FISHMAN

2 are you familiar with a company named Seal Dog  
3 Media?

4 A I am not.

5 Q Have you had any conversations  
6 with anyone at Plural about this lawsuit?

7 A No, other than notifying them of  
8 the Complaint after it occurred.

9 Q Who provided that Complaint to  
10 you?

11 A Someone at Quotewizard.

12 Q Who was that?

13 A I think Matthew, I am trying to  
14 remember his last name, Weiss.

15 Q Matthew Weeks?

16 A Yes; correct.

17 Q Did he provide that to you in an  
18 e-mail?

19 A Most likely, yes.

20 Q Did RevPoint send any  
21 information back via e-mail?

22 A Yes.

23 Q What did you send to Mr. Weeks?

24 A We sent them what was provided  
25 to us from Plural.



1 MICHAEL FISHMAN

2 Q And what was that that was  
3 provided to Plural?

4 A I don't have that information in  
5 front of me, but from my recollection it was a  
6 URL, time stamp, IP address, and possibly  
7 technique of acquisition of the lead and  
8 consent verification.

9 Q What do you mean by technique of  
10 acquisition of the lead?

11 A Whether the lead was generated  
12 through e-mail or search or display, but I  
13 don't remember specifically whether that was  
14 provided.

15 Q If you had that e-mail that you  
16 transmitted that information with, would that  
17 refresh your memory as to what it was?

18 A If I had that e-mail that we  
19 sent to Quotewizard?

20 Q Yes.

21 A Yes, sure.

22 MR. KING: I think he's about to  
23 show it.

24 THE WITNESS: Yeah, I got it.

25 Q Actually I am going to show

1 MICHAEL FISHMAN

2 you -- first go to the marked exhibits folder.

3 A Okay.

4 Q I will ask you to look at what's  
5 already been marked as Exhibit 2?

6 A Wait, hold on, that folder just  
7 now says folder not found.

8 MR. KING: That happened to me as  
9 well when I just -- now it's back.

10 Q You might have to refresh.

11 A Okay. Okay.

12 MR. KING: Sorry, guys, mine is  
13 loading.

14 MR. BRODERICK: No worries.

15 MR. POLANSKY: What folder are we  
16 looking at? Mine is just gone now.

17 MR. KING: All I see is  
18 deposition of George Rios.

19 THE WITNESS: Click on that  
20 again.

21 MR. KING: Then marked exhibits.

22 MR. BRODERICK: Mr. Fishman is  
23 going to talk us through this.

24 THE WITNESS: Yeah, if you hit  
25 refresh then you click on the deposition

1 MICHAEL FISHMAN

2 folder again, it will launch the folder  
3 again and then the file should be inside  
4 it.

5 MR. KING: I am looking for what,  
6 Ted?

7 MR. BRODERICK: Exhibit 2.

8 THE WITNESS: That I don't see.

9 MR. KING: I see four things  
10 under deposition of George Rios.

11 MR. BRODERICK: I am in the wrong  
12 folder myself.

13 Look at Exhibit 17, sorry.

14 A Okay.

15 Q Have you seen this document  
16 before?

17 A I don't recall seeing this  
18 document before, no, but it's possible.

19 Q Okay, I can represent to you  
20 that this was a document produced in discovery  
21 by Quotewizard and in your e-mail to Matthew  
22 Weeks of Quotewizard, is that  
23 SnappyAutoInsurance.com website, is that a URL  
24 that you provided to him?

25 MR. KING: Are you going to show

1 MICHAEL FISHMAN

2 him the e-mail to refresh his

3 recollection?

4 MR. BRODERICK: I don't think I  
5 have the e-mail.

6 A I don't remember what was in the  
7 e-mail that I sent to him, it's certainly  
8 possible.

9 Q I am going to show you your  
10 subpoena response, and maybe I have just missed  
11 it.

12 Now I have put a document it's  
13 supposed to say Plural response to Mantha  
14 subpoena; can you open that?

15 A Plural --

16 MR. KING: Plural, not RevPoint?

17 MR. BRODERICK: No, grabbed the  
18 wrong one again.

19 Q Okay, the RevPoint subpoena  
20 response. Do you see that?

21 A Hold on, RevPoint subpoena  
22 response combined, is that what I am looking  
23 at?

24 Q Yes.

25 A Okay.

1 MICHAEL FISHMAN

2 Q Do you recognize that document?

3 A Yes.

4 Q And were you served with a  
5 subpoena to produce the records requested  
6 there?

7 A Yes, they were.

8 Q I will ask you to scroll down to  
9 the very last page.

10 A Okay.

11 Q Is the data that was provided  
12 there, where did you collect that from?

13 A So, the data here was collected  
14 from our database.

15 Q Did you have to run a query to  
16 get that?

17 A Yes.

18 Q And what kind of database is  
19 that?

20 Is it SQL?

21 A I believe so, yes.

22 But I'm not 100 percent sure of  
23 that, so I would have to get back to you. I  
24 don't know for sure that it is SQL.

25 Q Okay, and did you do the search

1 MICHAEL FISHMAN

2 yourself, or somebody in your team?

3 A Someone in my organization did.

4 Q Is it fair to say that all of  
5 the data on this sheet was provided to you by  
6 Plural Marketing Solutions?

7 A Yes.

8 Q So you have no independent way  
9 to confirm whether any of this is accurate  
10 information, correct?

11 A No.

12 Q And you have no way to know  
13 whether Joe Mantha visited any website and  
14 input this information, correct?

15 A No way to confirm.

16 Q And when you provide a lead --  
17 when you provided this lead to Quotewizard,  
18 does RevPoint make any guarantee to Quotewizard  
19 that the person listed on the lead has  
20 consented to receive text messages?

21 MR. POLANSKY: Objection.

22 Q Sorry, could you hear me?

23 THE WITNESS: I'm sorry. So,  
24 Evan, I heard an objection.

25 MR. KING: Sorry, yes, yes, you

1 MICHAEL FISHMAN

2 can answer.

3 A I'm sorry, can you just repeat  
4 the question?

5 Q Sure. When you provided the Joe  
6 Mantha lead with the data that we are looking  
7 at here to Quotewizard, does RevPoint make any  
8 guarantee that the person, that Mr. Mantha had  
9 consented to receive -- provided TCPA consent  
10 to receive calls or text messages?

11 MR. POLANSKY: Objection.

12 A Yeah, I don't know how we would  
13 make an individual guarantee, other than  
14 supplying the data to Quotewizard that is  
15 supplied to RevPoint Media.

16 Q Right, but in essence you are  
17 just selling them data, you are not making a  
18 guarantee that this person has given TCPA  
19 compliance consent in order to receive text  
20 messages?

21 MR. POLANSKY: Objection.

22 A Well, it's our understanding  
23 that this lead had TCPA consent and text with  
24 it, so that -- the way we look at it, is that  
25 would be the guarantee.

1 MICHAEL FISHMAN

2 Q Right, but you don't indemnify  
3 Quotewizard for any claims that sending a text  
4 message based on that lead would be a  
5 violation?

6 MR. POLANSKY: Objection.

7 MR. KING: Yes, I will object.  
8 That's the kind of thing that he and I  
9 talked about.

10 I mean we can talk about generally  
11 or if he's familiar with the relationship  
12 that they had with Quotewizard, but in  
13 terms of this specific lead?

14 MR. POLANSKY: Yeah, I don't  
15 see -- there is nothing in the topics of  
16 examination that identify the contract  
17 between the parties and the  
18 indemnification agreement between them.

19 So I am going to object.

20 MR. BRODERICK: It all goes to  
21 the purchase or sale.

22 MR. POLANSKY: The indemnity goes  
23 to the purchase and sale? Where?

24 How do you get there?

25 MR. BRODERICK: It's part of the



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MICHAEL FISHMAN

sale.

Again, if you want to instruct him not to answer, that's okay, but it's not a huge point.

But I am trying to get at what he represents to -- in selling them this data, if it's a promise or a guarantee that's enforceable that you can call based on this.

MR. POLANSKY: Sure, I will just state my objection for the record, which is the agreement between the parties speaks for itself.

You can answer, if your attorney allows you to.

MR. KING: You can answer to the extent you remember about this case specifically, and it doesn't touch on any discussions that you and I have had or that you have had with counsel.

A I don't know whether or not there is any guarantee on this lead.

I would have to get back to you on that.

1 MICHAEL FISHMAN

2 Q Did Plural provide you with a  
3 guarantee that the lead came with valid TCPA  
4 consent?

5 A I don't know how to answer that.  
6 Within the lead there is nothing  
7 other than the data that is created -- supplied  
8 that it is -- that there is consent there, I'm  
9 not sure about guaranteeing each lead.

10 Q When you received -- when you --  
11 did you have any phone conversations with  
12 Matthew Weeks about Mr. Mantha's complaint?

13 A Not to my knowledge.

14 Q It was just e-mails?

15 A Yes.

16 Q Any text messages?

17 A No, we don't have -- I never  
18 texted with him.

19 Q I'm sorry, I apologize if I  
20 already asked, about when was that, if you  
21 remember?

22 MR. POLANSKY: About when was  
23 what? Objection.

24 Q The e-mail correspondence with  
25 Mr. Weeks.

1 MICHAEL FISHMAN

2 MR. POLANSKY: Thank you.

3 A I would have to get back to  
4 you -- I would say September, October of what  
5 was that, last year.

6 Q And then when you got that  
7 e-mail, did you then contact anyone at Plural?

8 A Yes.

9 Q And how did you do that?

10 A I think that was done from  
11 someone at RevPoint Media who had -- who then,  
12 I'm not sure whether it was over e-mail or  
13 Skype, but what at that point was their method  
14 of communication with Plural.

15 Q Okay, you don't know who the  
16 person was at Plural who your employee  
17 communicated with, do you?

18 A I'm pretty sure it was George  
19 Rios.

20 Q George Rios, okay, good.  
21 Did Plural say anything about  
22 the original source of this Mantha lead, in  
23 response to RevPoint's communication to Plural?

24 A Not to my knowledge, no.

25 Q Can you go back to Exhibit 17?

1 MICHAEL FISHMAN

2 A Okay.

3 Q On that document, what  
4 information did RevPoint have at the point at  
5 which it sold the lead to Quotewizard?

6 A I would have to do a comparison.  
7 I don't know, it would be my understanding that  
8 we would have received everything other than  
9 potentially the URL.

10 Q Would your understanding be that  
11 you would have to go to Plural to get that?

12 A Yes.

13 Q Do you know anything about that  
14 lead date of 8/5/19?

15 A I don't.

16 Q There is an IP address there, I  
17 will ask you to write that down, it's 96.2 --

18 A You are asking me to write that  
19 down?

20 Q Yes, please. Sorry.

21 A Sorry, I didn't have anything to  
22 write with in front of me.

23 Okay, so this 96.242.132.28.

24 A 132.28, okay.

25 Q That's also associated with a

1 MICHAEL FISHMAN

2 Jornaya lead ID which starts 8D3 and ends in  
3 BFF?

4 A Okay.

5 Q I just want to compare that to  
6 another document which is Exhibit 18, and I  
7 will represent to you this is a subpoena  
8 response from Jornaya about that?

9 A Hold on, Exhibit 18, okay.

10 Q You've got it?

11 A Yes.

12 Q And that's -- this is a subpoena  
13 response from Jornaya.

14 How long -- well, does RevPoint  
15 have a contract with or an account with  
16 Jornaya?

17 A Not to my knowledge. I don't  
18 know that an account was never created with  
19 Jornaya, but we do not have an account -- a  
20 contract or relationship like that.

21 Q Does RevPoint generate its own  
22 leads that is for sale?

23 MR. KING: Ted?

24 MR. BRODERICK: Yes.

25 MR. KING: Sorry, can you repeat

1 MICHAEL FISHMAN

2 that, you kind of garbled up. I  
3 couldn't really hear that.

4 Q Does RevPoint generate its own  
5 leads for sale to customers?

6 A We do not.

7 Q So you are purely a middleman of  
8 you take somebody else's lead and then sell it?

9 A Correct.

10 Q So, can RevPoint generate a  
11 Jornaya lead ID to associate it with one of the  
12 leads that it's selling?

13 A No.

14 Q If there is a Jornaya lead ID  
15 associated with your -- with a lead that you  
16 are selling, that would have come with it to  
17 you, right correct?

18 A Correct.

19 Q Would you look at the Jornaya  
20 subpoena response today, last page, and I can  
21 represent to you that the universal lead ID,  
22 also known as a Jornaya lead ID, is the same as  
23 on the Quotewizard opt in, but that IP address  
24 on the Quotewizard -- on this Jornaya subpoena  
25 response is not the same as on the Quotewizard

1 MICHAEL FISHMAN

2 opt in, correct?

3 MR. KING: I object. They speak  
4 for themselves but you can answer.

5 Sorry, I cut you off.

6 A Yeah, I can see that.

7 Q Do you know why those IP  
8 addresses don't match?

9 A I do not know why.  
10 I would only be able to  
11 speculate.

12 Q Let's flip back to Exhibit 17.  
13 Do you see the language on TCPA disclosure?

14 A Yes.

15 Q Did you provide that information  
16 to Mr. Weeks at Quotewizard?

17 A I believe so.

18 Q Did you provide it separately or  
19 was it just within a URL that you provided, on  
20 a web page that linked through the URL?

21 A I don't recall.

22 Q And how about the screen shot  
23 language on Exhibit 17?

24 A I don't recall how the  
25 information was provided.

1 MICHAEL FISHMAN

2 Q What's your understanding of how  
3 a Jornaya lead ID works?

4 A My opinion, understanding of how  
5 Jornaya lead IDs work?

6 Q Yes.

7 A So a Jornaya lead ID code is  
8 placed on a generation website that records or  
9 captures the user experience on that website,  
10 and then is in some way linked to a particular  
11 ID where that ID can then be utilized to  
12 recapture the user experience; or viewer  
13 recording of the user experience, is my  
14 understanding of Jornaya's lead IDs.

15 Q Is it your understanding that an  
16 IP address on a lead and a Jornaya lead ID  
17 should match?

18 A That is not my understanding.

19 Q What is your understanding?

20 A So an IP address delivered in an  
21 APA could come from different places, it could  
22 come from the IP address of the servers that  
23 the platform is utilizing, it could come from  
24 the website of where the lead was generated.

25 There is opportunity there for



1 MICHAEL FISHMAN

2 IP addresses to not match the user IP address  
3 who filled out the form.

4 Q Then how do you know that a  
5 particular user visited from a particular IP  
6 address?

7 A We would not be able to utilize  
8 an IP address definitively in the lead that is  
9 captured and then distributed.

10 Q What would you use?

11 A For what purpose?

12 Q To validate the --

13 A A particular lead?

14 Q A particular lead, yes.

15 A Well, in most cases we would  
16 request the user IP address from the generator.

17 Q From the lead generator?

18 A Correct.

19 Q And by that, do you mean the  
20 website on which a lead was created?

21 A Yes.

22 Q And would that be captured -- is  
23 that supposed to be captured by a Jornaya lead  
24 ID?

25 A I don't know what the

1 MICHAEL FISHMAN

2 requirements are, which Jornaya lead IDs,  
3 because from my understanding that is up to the  
4 end users, the clients of Jornaya.

5 But I don't have any knowledge  
6 of what the exact information Jornaya captures.

7 Q Okay.

8 Have you ever seen a Jornaya  
9 rendering of the user experience in creating a  
10 lead?

11 A I actually don't believe I have.

12 Q Have you ever given RevPoint's  
13 role as a middleman, do you look at TCPA  
14 disclosure language on whatever website  
15 something was created?

16 A Well, in many cases we are not  
17 aware of the website in realtime.

18 And so we wouldn't be able to --  
19 that would be a very difficult task.

20 Q Did you terminate your  
21 relationship with Plural because of this  
22 lawsuit?

23 A We -- I don't know that we  
24 terminated our relationship, we certainly -- it  
25 became restricted to say the least.

1 MICHAEL FISHMAN

2 I don't know that there was an  
3 official termination.

4 Q But you are no longer accepting  
5 leads from Plural, correct?

6 A That is correct.

7 Q Have you had --

8 MR. BRODERICK: Strike that.

9 Q Can we go back to the RevPoint  
10 subpoena response.

11 MR. BRODERICK: I am going to  
12 mark this, try to mark this as Exhibit  
13 19.

14 (The above described document was  
15 marked Exhibit 19 for identification as of  
16 this date.)

17 A I'm sorry, what am I looking at?

18 Q What's now been marked as  
19 Exhibit 19 which is the RevPoint subpoena  
20 response combined, should be in the marked  
21 exhibits folder?

22 A I've got it, thank you.

23 Q Do you still have the e-mail  
24 exchange that you had with Matthew Weeks of  
25 Quotewizard?

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MICHAEL FISHMAN

A I don't know -- I believe so.

MR. BRODERICK: Evan, I will just make note for the record that I think that those e-mails were responsive to our subpoena and that we request that they be produced.

MR. POLANSKY: Ted, just for the record, I mean these e-mails we marked as work product on our privilege log, we discussed this last time during Matthew Week's deposition, just for the record.

We can discuss it after.

MR. BRODERICK: We can confer about that, we don't need to bore Mr. Fishman any more than we already are.

Q Have you produced any additional information to Quotewizard about what you -- about information that was provided to Quotewizard when RevPoint sold them the Mantha lead?

MR. POLANSKY: Objection.

MR. KING: When, do you mean like through our subpoena response?

MR. BRODERICK: Not through the

1 MICHAEL FISHMAN

2 subpoena response.

3 Q We got a supplemental production  
4 recently and I want to know if you were the  
5 source of the information we received last  
6 night.

7 MR. KING: I haven't seen it, I  
8 know the witness hasn't either.

9 Q Okay, you didn't provide any  
10 information within the last month to  
11 Quotewizard?

12 A No.

13 MR. KING: He's talking to me,  
14 really, so not to my knowledge.

15 I don't understand the question, we  
16 haven't made a supplemental production in  
17 the last month.

18 MR. POLANSKY: No, Quotewizard  
19 made a supplemental production that  
20 didn't come from RevPoint.

21 MR. BRODERICK: I am going to  
22 move a folder into the marked exhibits  
23 which is supplemental production  
24 7-27-20.

25 A This is a new folder. I see it.

1 MICHAEL FISHMAN

2 Q Supplemental production.

3 A Okay.

4 MR. KING: Just a second. Is it  
5 under marked exhibits?

6 Thank you.

7 MR. BRODERICK: You might need to  
8 refresh, everybody let me know when you  
9 have it.

10 MR. KING: Got it.

11 Q Do you see a document titled  
12 Quotewizard\_mantha 000101?

13 A The PDF, oh, 000101-104?

14 Q Yes.

15 A Yes.

16 Q Do you recognize that document?

17 A Do I recognize the document?

18 No; I don't recognize the  
19 document.

20 Q Does the information contained  
21 within the document look familiar?

22 A It looks familiar, yes.

23 Q And what is it?

24 A It looks like -- it looks like  
25 the lead information for Mr. Mantha.

1 MICHAEL FISHMAN

2 Q And is this the information that  
3 is -- well, is this at the point at which you  
4 ping the system, or is this when you provide  
5 the full lead after purchase?

6 MR. KING: Sorry, objection as to  
7 form.

8 I think we might be skipping a step  
9 here. Did you ask if RevPoint created or  
10 provided this document?

11 Q Well, the information that's  
12 within this document, you did not create this  
13 document, correct?

14 This PDF?

15 A Not to my knowledge, no.

16 Q But you say the information  
17 looks like the Mantha lead?

18 A From the information that I can  
19 decipher, yes.

20 I mean I am looking at his name  
21 is in here and his e-mail address.

22 And there are a lot of -- it's  
23 sort of a run-on sentence, but is that a  
24 printout of what -- is that the type of  
25 information that is exchanged by your API

1 MICHAEL FISHMAN

2 system when someone buys a lead?

3 A It could be, yes.

4 Q And that would be provided on  
5 the purchase of the lead by the end user?

6 A Correct, yes, because there is a  
7 first name and last name and e-mail and phone.

8 Q Okay, can you open something  
9 that says letter McKew?

10 A Okay.

11 Q And it's -- has RevPoint  
12 provided two separate leads with Joe Mantha's  
13 name to Quotewizard?

14 A Not to my knowledge, no.

15 Q Just the one lead that we have  
16 been talking about in this deposition, correct?

17 A Just the one lead, correct.

18 Q Okay, can you open the Excel  
19 spreadsheet there.

20 Do you recognize this Excel  
21 spreadsheet?

22 A No.

23 Q You didn't create it?

24 A No.

25 Q Looking at this document, do you



1 MICHAEL FISHMAN  
2 have any idea what quote\_ID means?

3 A No.

4 MR. BRODERICK: I am just going  
5 to go ahead and introduce these  
6 exhibits.

7 I introduce the letter as 20, the  
8 Excel spreadsheet, this I have to do  
9 differently I guess.

10 This just gets moved into the  
11 folder, I guess, but it doesn't get a  
12 number.

13 And then the PDF Quotewizard\_mantha  
14 I am going to introduce as Exhibit 21.

15 (The above described document was  
16 marked Exhibit 20 for identification, as  
17 of this date.)

18 (The above described document was  
19 marked Exhibit 21 for identification, as  
20 of this date.)

21 Q Go back to Exhibit 19, the  
22 RevPoint subpoena response, the last page of it  
23 which is the data that you said you queried  
24 your database to get.

25 A Okay.

1 MICHAEL FISHMAN

2 Q Did your database have any  
3 reference to SnappyAutoInsurance.com?

4 That for some reason didn't get  
5 put on this sheet of data?

6 A No.

7 Q Would you agree that the IP  
8 address on your data sheet is not the same as  
9 on the Quotewizard opt in?

10 A Which two IP addresses am I  
11 looking at, because I know there was a  
12 discrepancy in that, but I'm not sure with  
13 what.

14 Q Right, so this one is  
15 66.187.107.166 and then we can look at the --

16 A The one I have written down?

17 Q Yes, which you wrote down from  
18 the Quotewizard opt in, which is 96. --

19 A Yes, I can confirm that those  
20 are not the same.

21 Q Right.

22 Do you know why they don't  
23 match?

24 A I do not.

25 Q Are you aware that Plural

1 MICHAEL FISHMAN

2 Marketing Solutions has provided a response to  
3 a subpoena in connection with this case?

4 A I did not.

5 Q Have you ever seen that subpoena  
6 response?

7 A I have not.

8 Q I am going to show you that, I  
9 am going to introduce it as Exhibit 22 for ease  
10 of reference.

11 A Okay.

12 (The above described document was  
13 marked Exhibit 22 for identification, as  
14 of this date.)

15 Q I will ask you to scroll down in  
16 that document to what starts after Exhibit C?

17 A Okay.

18 Q Have you seen any of that  
19 information from any source?

20 MR. BRODERICK: Strike that.

21 Q Are you familiar with that  
22 e-mail address for Adam Brown?

23 A No, I am not.

24 Q And although Plural lists the  
25 source of the application as

1 MICHAEL FISHMAN

2 SnappyAutoInsurance.com, was that -- when did  
3 you learn that that was where Plural said the  
4 opt-in had come from?

5 A We learned of that when we  
6 requested and received opt in information in  
7 order to verify consent.

8 Q That was after this Complaint by  
9 Mr. Mantha, though, correct?

10 A To my knowledge, yes.

11 MR. POLANSKY: Just to be clear,  
12 for the record when you say Complaint,  
13 are you talking about the actual  
14 complaint filed in the lawsuit, or some  
15 sort of demand letter, Ted?

16 MR. BRODERICK: Really --

17 MR. POLANSKY: Because I know we  
18 had confusion about this earlier in my  
19 client's deposition.

20 MR. BRODERICK: No, right. No, I  
21 would say when you were first contacted  
22 with any kind of complaint, even if it  
23 was just a demand letter, did you look  
24 into whether the consent was valid,  
25 correct?

1 MICHAEL FISHMAN

2 MR. POLANSKY: Thanks.

3 A Correct, yes.

4 Q And you see that the date of the  
5 application provided -- well, by Plural in  
6 response to our subpoena, is 6/26/2019?

7 A Yes.

8 Q Did they provide that  
9 information to you?

10 A I don't recall, it's possible.

11 Q And this data, I don't see a  
12 Jornaya lead ID in Plural's response to the  
13 subpoena.

14 Do you know if Plural had a  
15 Jornaya lead ID associated with Mr. Mantha's --  
16 Mr. Mantha's supposed lead at the time it was  
17 created?

18 A I can only talk about when that  
19 lead was offered and then sent into RevPoint  
20 Media.

21 At that point there was a  
22 general lead ID associated with 2, so I  
23 can't -- I have no idea how -- what Plural --  
24 how they generate their Jornaya lead IDs.

25 Q Do you have any -- I can

1 MICHAEL FISHMAN

2 represent to you that Jornaya says that the  
3 lead ID provided by Plural is actually  
4 associated with a website called  
5 unitedquotes.com.

6 Do you have any idea why in its  
7 transmission to you they said it was  
8 SnappyAutoInsurance.com?

9 A I have no idea.

10 Q Do you have any idea why the  
11 date of application on the Plural subpoena  
12 response does not match the date of application  
13 on the Jornaya lead ID?

14 A I do not.

15 Q Does RevPoint take any position  
16 on whether Mr. Mantha consented to receive  
17 telemarketing text from Quotewizard?

18 A Well, it's my understanding that  
19 consent was given, because that data was  
20 provided to us.

21 Q But nobody at RevPoint has any  
22 personal knowledge as to who it was that  
23 supposedly filled out this lead on a website?

24 A Other than the information we  
25 received, we have no other knowledge.

1 MICHAEL FISHMAN

2 Q Okay, thanks.

3 MR. BRODERICK: No further  
4 questions right now.

5 Thank you very much.

6 MR. POLANSKY: Great.

7

8 EXAMINATIN BY

9 MR. POLANSKY:

10

11 Q Mr. Fishman, once again, I am  
12 Kevin Polansky, I represent the Defendant  
13 Quotewizard in this case.

14 I do have a couple of follow-up  
15 questions.

16 This won't take very long, but I  
17 do want to go through a few things.

18 A Sure.

19 Q Have you ever personally went to  
20 the SnappyAutoInsurance website?

21 A I don't know whether I clicked  
22 on that link when it was provided by Plural.

23 Possibly -- I probably did, but  
24 I don't recall, I probably made sure that it  
25 was active before I sent it.

1 MICHAEL FISHMAN

2 Q Do you know if when you clicked  
3 on the link it was active?

4 A I would not have sent a URL to  
5 Quotewizard that was not active.

6 Q And --

7 MR. POLANSKY: Strike that.

8 Q You personally sent the URL of  
9 SnappyAutoInsurance.com to Quotewizard, is that  
10 correct?

11 A That is correct.

12 Q And that was Matthew Weeks you  
13 sent it to?

14 A I'm pretty sure, yes.

15 Q Now, are you aware that you also  
16 sent him an IP address?

17 A I'm sure.

18 Q And you were asked by  
19 Mr. Broderick some questions about whether the  
20 IP address on the Quotewizard opt in sheet that  
21 you looked at is the same as the RevPoint  
22 response, and you testified that they are  
23 different, right?

24 A Yes.

25 Q Do you know why they are



1 MICHAEL FISHMAN

2 different?

3 A I don't know why. I can only  
4 speculate.

5 Q And what's your belief?

6 MR. BRODERICK: Objection.

7 Q You can answer.

8 A I can answer that?

9 MR. BRODERICK: Yes.

10 MR. POLANSKY: Yes.

11 A So, my belief is that, and this  
12 happens with some regularity in the space, is  
13 that IP addresses come from the platforms that  
14 are supplying the API data and not from the  
15 user, and systems are not verifying the IP  
16 address other than potentially if it's  
17 international.

18 MR. BRODERICK: Objection, move  
19 to strike.

20 Q The IP address identified in the  
21 RevPoint response, was that IP address provided  
22 by Plural?

23 A We would -- anything that we  
24 provided would have been provided by Plural.

25 Either in the original data that

1 MICHAEL FISHMAN

2 was sent over, or in a subsequent request.

3 Q Do you still have the Plural  
4 response to the Mantha subpoena in front of  
5 you?

6 MR. BRODERICK: Exhibit 22.

7 A Yes, I do.

8 Q On I believe it's page 15 of 20,  
9 there is a document and at the top it says  
10 "original source lead generator."

11 Do you see that?

12 A No, I'm sorry, let me catch up  
13 to where were you saying.

14 Q Page 15 of 20.

15 A 15, okay.

16 Q And do you see a Word document  
17 with two bolded sections called original source  
18 lead generator and applicant TCPA audit?

19 A No, hold on, I think I'm in the  
20 wrong place. Exhibit C is this?

21 Q Yes, right after Exhibit C or I  
22 guess it is Exhibit C, yes.

23 A And this is the lead data?

24 Q Yes.

25 A Okay; okay.

1 MICHAEL FISHMAN

2 Q Do you see where they identify  
3 the applicant IP address?

4 A Yes.

5 Q And that's different from the IP  
6 address that RevPoint provided in response to  
7 its subpoena, right?

8 A Again, I don't have the two in  
9 front of me to make that comparison, because  
10 that one looks like the one I have written  
11 down, but I don't have the -- what we provided  
12 in front of me.

13 Q Okay, let's take a look at it,  
14 its Exhibit 19.

15 A Okay.

16 Q I think it the last page.  
17 Would you agree that the IP  
18 addresses don't match?

19 A Correct, they do not match.

20 Q Do you know whether Plural  
21 provided RevPoint with more than one IP address  
22 for this lead?

23 A Within the original lead?

24 Q I guess within the original  
25 lead, or at any time.

1 MICHAEL FISHMAN

2 A I don't know.

3 Within the original lead, I  
4 don't think we accept in the API multiple IP  
5 addresses, so that would not be possible.

6 But I don't know -- anything we  
7 provided they provided, so if they provided a  
8 different IP address, we certainly would have  
9 been provided multiple IP addresses.

10 Q Who created this document in  
11 front of you at Exhibit 19?

12 MR. KING: Sorry, is Exhibit 19  
13 RevPoint's response?

14 Q Yes, page 10?

15 MR. KING: The subpoena response  
16 obviously would have been created by me.

17 MR. POLANSKY: I guess my  
18 question is on the last page, do you  
19 know why the Jornaya lead ID is not  
20 identified on this page.

21 A That I don't know.

22 Q Do you dispute that you  
23 provided --

24 MR. BRODERICK: Strike that.

25 Q Do you dispute that RevPoint

1 MICHAEL FISHMAN

2 provided a lead ID to Quotewizard?

3 A No, I don't ski.

4 Q In fact Quotewizard required a  
5 Jornaya lead ID, is that right?

6 A That's right. I don't recall  
7 the API requirements, it's certainly possible  
8 and not uncommon to have that as a requirement.

9 Q In this case you don't dispute  
10 that a Jornaya lead ID was provided from  
11 RevPoint to Quotewizard?

12 A No, I do not dispute that.

13 Q Just turning back to Exhibit 17.

14 A Okay.

15 Q Do you dispute any of the  
16 information on this exhibit was provided by  
17 RevPoint to Quotewizard?

18 MR. BRODERICK: Objection to the  
19 form.

20 A I can't say one way or the  
21 other, I don't recall.

22 Q Okay.

23 But you do recall that RevPoint  
24 provided an IP address to Quotewizard, right?

25 A That's correct.

1 MICHAEL FISHMAN

2 Q And a Jornaya lead ID was also  
3 provided by RevPoint to Quotewizard, is that  
4 right?

5 A Within the original lead,  
6 correct.

7 Q And that at some point in time  
8 you did provide a URL to SnappyAutoInsurance to  
9 Quotewizard, right?

10 A Correct.

11 Q And then the other information  
12 is sort of the data that would come with the  
13 lead packet, is that right?

14 MR. BRODERICK: Objection.

15 A That's my understanding.

16 I don't know if I provided this  
17 screenshot or that was generated, I don't know.

18 Q But in any event, you would have  
19 advised or --

20 MR. BRODERICK: Strike that.

21 Q In any event, you would have  
22 informed Quotewizard where to find or obtain  
23 the consent language?

24 MR. BRODERICK: Objection.

25 A I don't recall.

1 MICHAEL FISHMAN

2 Q Well, do you know whether  
3 RevPoint in the lead provided consent language  
4 to Quotewizard?

5 A We would have provided consent  
6 language within the lead.

7 MR. BRODERICK: Objection to the  
8 form.

9 Q You would have?

10 A It's my understanding that  
11 consent language came with the lead.

12 Q What type of consent language  
13 comes with the lead?

14 A Whatever is provided by the  
15 lead, so whatever Plural sent us we would have  
16 sent to Quotewizard.

17 Q So I'm going to turn your  
18 attention to Exhibit 21 that you just looked  
19 at.

20 A Okay.

21 Q And I'm going to represent to  
22 you that this was the electronic information  
23 that came from RevPoint to Quotewizard after  
24 the lead was purchased.

25 Can you go through these four

1 MICHAEL FISHMAN

2 pages and tell me if you see any consent  
3 language?

4 A I do not see any consent  
5 language.

6 Q Do you recall after receiving, I  
7 know Mr. Broderick used the term complaint, but  
8 after Mr. Weeks informed you of a demand  
9 received by Quotewizard from the Plaintiff in  
10 this case, that he reached out to you for  
11 consent language?

12 A I don't know that I reached out  
13 specifically for consent language, but reached  
14 out for verification of consent.

15 Q Okay, but he did reach out by  
16 e-mail to you for verification of consent with  
17 respect to Mr. Mantha, is that right?

18 A Matthew Weeks, right?

19 Q Yes, yes.

20 A Yes, he did.

21 Q And you provided the information  
22 that you had received from Plural Marketing, is  
23 that right?

24 A Correct.

25 Q And turning again to Exhibit 17,



1 MICHAEL FISHMAN

2 do you have any reason to dispute the TCPA  
3 disclosure that's on this document as being  
4 provided by you to Mr. Weeks?

5 A No, I have no reason to dispute.

6 MR. POLANSKY: That might be all  
7 I have, but I would like to check my  
8 notes real quickly.

9 Just give me a moment.

10 THE WITNESS: Sure.

11 Q When you reached out after  
12 hearing from Matthew Weeks to verify the  
13 consent for Mr. Mantha did you personally reach  
14 out to George Rios or did someone from your  
15 team or company?

16 A Someone from my team.

17 Q Do you know who that individual  
18 is?

19 A Yes, that was Jesse Schreiber.

20 Q Is Jesse a man or woman?

21 A A man.

22 Q And how do you spell Schreiber?

23 A S-c-h-r-e-i-b-e-r.

24 Q Okay.

25 Q I think you mentioned it was

1 MICHAEL FISHMAN

2 either by Skype or e-mail, is that right?

3 A Correct, or possibly a blend, I  
4 don't know.

5 MR. BRODERICK: Possibly a what?

6 A A blend of the two, maybe  
7 reaching out on Skype and shooting an e-mail.

8 Q Do you know if Plural Marketing  
9 is associated with the website  
10 unitedquotes.com?

11 A I don't know. I could only  
12 speculate.

13 Q Have you ever heard of the  
14 website called Snappy Surveys?

15 A I have not.

16 Q Have you ever heard of Justin  
17 Cohen, I think you might have answered that?

18 A No, I don't know that name.

19 Q And Adam Brown?

20 A Nope.

21 Q When you went to the  
22 SnappyAutoInsurance website to confirm that it  
23 was working, did you happen to take any  
24 screenshots or images from that website at the  
25 time?

1 MICHAEL FISHMAN

2 A No.

3 Q When you went on the  
4 SnappyAutoInsurance website, did you go on the  
5 website to confirm there was TCPA compliance  
6 language on the website?

7 A I don't recall what I did when I  
8 went on that website.

9 MR. POLANSKY: I have no further  
10 questions.

11 Thank you very much for your time.

12 MR. BRODERICK: Nothing further  
13 from me.

14 Thanks very much, Mr. Fishman.

15 THE WITNESS: This concludes  
16 today's testimony given by Michael  
17 Fishman, total number of media units is  
18 1 and will be retained by Veritext.

19 The time is approximately 1:59 p.m.

20 We are off the record.  
21  
22  
23  
24  
25

MICHAEL FISHMAN

I, the undersigned, a Certified Shorthand Reporter of the State of New York, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly sworn; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction;

That the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case before completion of the proceedings, review of the transcript [ ] was [x ] was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.



Stephen J. Moore  
RPR, CRR  
Dated: 8/11/2020

1 MICHAEL FISHMAN

2 DECLARATION UNDER PENALTY OF PERJURY

3 Case Name: MANTHA v. QUOTEWIZARD

4 Date of Deposition: July 28,  
5 2020

6  
7 I, MICHAEL FISHMAN, hereby certify

8 Under penalty of perjury under the  
9 laws of the State of New York that the  
10 foregoing is true and correct.

11 Executed this \_\_\_\_\_ day of  
12 \_\_\_\_\_, 2020, at  
13 \_\_\_\_\_.

14  
15  
16 \_\_\_\_\_  
17  
18 MICHAEL FISHMAN  
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MICHAEL FISHMAN  
DEPOSITION ERRATA SHEET  
Case Name: MANTHA v. QUOTEWIZARD  
Name of Witness: MICHAEL FISHMAN  
Date of Deposition: July 28,  
2020  
Reason Codes: 1. To clarify the  
record.  
2. To conform to the facts.  
3. To correct transcription errors.

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**MICHAEL FISHMAN**  
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\_\_\_\_\_ Subject to the above  
changes, I certify that the transcript is  
true and correct

\_\_\_\_\_ No changes have been  
made. I certify that the transcript is  
true and correct.

\_\_\_\_\_  
**MICHAEL FISHMAN**

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